

MEMORANDUM

TO: Members, Clark Fork Basin Water Management Task Force (Task Force)
FROM: Gerald Mueller
SUBJECT: Summary of the May 7, 2007 Task Force Meeting
DATE: May 7, 2007

Participants

The following people participated in the Task Force meeting:

Task Force Members:

Harvey Hackett	Bitterroot Water Forum
Fred Lurie	Blackfoot Challenge
Nate Hall	Avista
Elan Darrow	Flathead Basin Commission
Marc M. Spratt	Flathead Conservation District/Flathead Chamber of Commerce

Ex Officio Member

Sen. Verdell Jackson

Staff:

Gerald Mueller Consensus Associates

Meeting Agenda

- March 5, 2007 Meeting Summary
- Task Force Membership Update
- Task Force Legislation and Funding Bills
- 2007 Water Legislation
- Task Force Work Plan
- Public Comment
- Next Meeting

March 5, 2007 Meeting Summary

The Task Force made no change to the March 5, 2007 meeting summary.

Task Force Membership Update

Gerald Mueller reported that after the last Task Force meeting, he met with John Tubbs to discuss DNRC Director Mary Sexton's appointments to the Task Force. Mr. Tubbs agrees that groups interested in serving on the Task Force should select their representative, and that the Task Force cannot be perceived to have a partisan, political agenda. We intended to take this up with Ms. Sexton after the legislative session, and are still waiting to do so.

Task Force Legislation and Funding Bills

The Task Force's two substantive bills, SB 324 and SB 376, both passed the legislature without opposition and have been signed by Governor Schweitzer. Mr. Mueller passed out copies of the final versions of both bills. SB 324 requires state agencies to forward aquifer pump test data to the Montana Bureau of Mines and Geology (MBMG) and requires well drillers to report the location of the wells they drill to MBMG using two methods. SB 376 allows the state to lease to Montana water users up to 1 million acre feet of water from federal reservoirs. The House of Representatives

passed the two Task Force funding bills, HB 443 and BH 444. HB 443 appropriated funds for the state's effort to contract water from Hungry Horse. HB 444 funded the Task Force at \$45,000 per year for the biennium. After adding same amount of money in HB 443 and HB 444 to DNRC's budget, Senate Finance and Claims tabled the two bills. Unfortunately, the legislature adjourned without passing at state budget, so this funding was not approved. Mr. Mueller stated that he had contacted Mary Sexton and that she has agreed to ask the Budget Office to include this funding in DNRC's budget in the version of the bill that is introduced in the special legislative session. If this funding is not included in the introduced budget, we will have to find a legislature to amend it into the bill. Mr. Mueller will continue monitoring the status of the budget bill.

Committee Member Comment - The passage of the two Task Force substantive bills demonstrates the Task Force's value and its power. Because the Task Force is representative of the basin's water interests, when it takes time to discuss issues, it can be successful in getting them addressed.

Committee Member Comment - The fact that the funding was included within DNRC's budget also demonstrates that more people with interests in water use are coming to understand the need for a supply of water for future use in the Clark Fork River basin.

Committee Member Comment - In the future, municipalities will be increasingly important in supplying new water uses.

Committee Member Comment - As a result of the DNRC's ruling in the Thompson River Cogeneration, the City of Kalispell has two wells that it cannot get permitted. One of the wells would support an industrial park.

2007 Water Legislation

Gerald Mueller reported on other major water bills that passed the legislature this session:

- SB 248 - This bill ratifies the reserved water rights compact between the State and the US Forest Service. It passed without significant opposition and has been signed by the governor.
- HB 39 - This bill requires that water right ownership changes be recorded with the DNRC before closure of property sales or ownership transfers. It will allow DNRC to maintain an accurate data base on water rights ownership. This bill has been signed by the governor.
- HB 304 - HB 304 began as a bill to re-establish a permanent legislative water policy committee. It was changed in the House of Representatives to create a two year interim water policy committee tasked with examining almost every major water issue. It includes a \$50,000 appropriation for the biennium for the committee and another \$50,000 for MBMG. This bill has not yet been signed by the governor.
- HB 473 - This bill eliminates the water right adjudication fee. It does not provide a refund for fees already paid and requires that water right holders who did not pay the previous fee continue to have an obligation to do so and to pay a penalty for not doing so. The bill contains a \$25 million appropriation from the general fund to pay for completion of the adjudication by 2020. This bill has been signed by the governor.
- HB 831 - This bill addresses permitting of new ground water wells in basins with surface water rights closures. The bill requires an applicant for a new well to provide a hydrologic assessment conducted by a hydrologist, qualified scientist, or qualified licensed professional engineer demonstrating whether the new appropriation would result in a net depletion of surface water. If a net depletion would result, the applicant must also assess whether it would result in an adverse effect on an existing water right. If an adverse effect is predicted, the applicant must file a plan for mitigating that impact. The bill also appropriates \$500,000 to

MBMG to conduct a case study to determine minimum standards and criteria for the hydrologic assessments. This bill has been signed by the governor.

Task Force Work Plan

The Task Force identified the following items to be included in the work plan for the next biennium:

- Consideration of a licensing requirement for hydrologists, in light of HB 831;
- The state contract for Hungry Horse water;
- Examination of the water rights change process, and particularly the effect of allowing only the consumptive amount to be transferred;
- Coordination with the Interim Water Policy Committee, assuming HB 304 is signed by the governor;
- Working with MBMG on its HB 831 studies;
- Completing the white paper on the existing water right system.

Public Comment

There was no additional comment.

Next Meeting

The next meeting will be scheduled after the special session of the legislature is finished and a decision is made about Task Force funding and funding for the state Hungry Horse contract.